IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 636 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NOORMAHMAD NASHIRBHAI UMATIYA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 636 of 2003

MS PAHWA for M/S THAKKAR ASSOC. for Petitioner No. 1

MS. NANDINI JOSHI, AGP for Respondent No. 1-3

RULE SERVED BY DS for Respondent No. 1-2

MS PJ DAVAWALA for Respondent No. 4

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 30/04/2003

ORAL JUDGEMENT

Heard learned advocate Mr. Pahwa for Ms. Pahwa for the petitioner and learned AGP Ms. Nandini Goshi for the respondent Nos. 1-3.

2. The affidavit and further affidavit on behalf of respondent No.1 State of Gujarat and respondent No.2 District Magistrate, Banaskantha along with annexures tendered today by Ms. Nandini Joshi, learned AGP are taken on record. There is no formal allegation against the Union of India. However, the learned standing counsel for the Union of India Ms. P.J.Davawala has tendered an affidavit and the same is taken on record.

3. I have carefully gone through the averments made in the petition and the reply filed by the otherside.

4. It is apparent that the present order under challenge is just similar to the order passed by the very authority against other detenu namely Hapuji Umaji Gelot. This Hapuji Umaji Gelot has challenged the legality and validity of the order of detention by making Special Civil Application No. 635 of 2003 which has been heard and decided today. It is not a matter of dispute that the present petitioner is also a petrol pump owner and and from whose petrol pump, a sample of diesel was drawn and sent for analysis to Forensic Science Laboratory, and as the sample was found not according to the standard, the petitioner has been detained. The grounds for detention is available on record and I have carefully compared the grounds of detention of both the petitions. Mr. Pahwa has very specifically stated that the grounds for detention under challenge are similar to the petition filed by Hapuji Umaji Gelot, other detenu, so, on the same ground, this petition can be disposed of.

5. In response to the query raised by the learned AGP it is fairly expected that this petition is similar to the earlier petition which has been heard and decided by this Court today, so it can be said that this petition is covered by the decision given by this Court today in Special Civil application No. 635 of 2003 and other three decisions referred to by this Court namely; 1992(2) GLH 144 of this Court in Special Civil Application No. 293 of 2003 (ii) PARSHOTTAMBHAI NAVALRAM KHEMANI V. STATE OF GUJARAT AND ANOTHER, 1985(2) GLR 620 and (iii) AIR 2000 SC 3675 AMRUTLAL AND OTHERS VS. UNION GOVERNMENT AND OTHERS.

6. It is not necessary to give reasons again. I adopt the reasons assigned by me while dealing with the above Special Civil Application No. 635 of 2003 and I am

inclined to allow this petition on the same grounds and for the same reasons. The reasons assigned by this Court in the said Special Civil Application should be treated as reasons assigned in the present petition also. Registry is directed, by way of abandoned caution to put a copy of the petition of Special Civil Application No. 635 of 2003 along with this petition.

7. In the result, this petition is allowed. The impugned order of detention dated 29th August, 2002 passed by the District Magistrate, Banaskantha at Palanpur, is hereby quashed and set aside. The petitioner detenu NOORMAHMAD NASHIRBHAI UMATIYA is set at liberty forthwith, if he is not required to be detained in any other case. Rule is made absolute. DS permitted.

(C.K.Buch,J)

Jayanti*